

PATENT COOPERATION TREATY

PCT
NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 72.2)

From the INTERNATIONAL BUREAU

To:

BÜHLER AG
 Bahnhofstrasse
 CH-9240 Uzwil
 Switzerland

Date of mailing (day/month/year) 05 May 2004 (05.05.2004)	
Applicant's or agent's file reference MC 003-P/WO	IMPORTANT NOTIFICATION
International application No. PCT/CH2002/000477	International filing date (day/month/year) 02 September 2002 (02.09.2002)
Applicant BÜHLER AG et al	

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

CA,CN,JP,KP,KR,US

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AP,EA,EP,AE,AG,AL,AM,AT,AU,AZ,BA,BB,BG,BR,BY,BZ,CH,CO,CR,CU,CZ,DE,DK,DM,DZ,EC,EE,ES,FI,GB,GD,GE,GH,GM,HR,HU,ID,IL,IN,IS,KE,KG,KZ,LC,LK,LR,LS,LT,LU,LV,MA,MD,MG,MK,MN,MW,MX,MZ,NO,NZ,OM,PH,PL,PT,RO,RU,SD,SE,SG,SI,SK,SL,TJ,TM,TN,TR,TT,TZ,UA,UG,UZ,VC,VN,YU,ZA,ZM,ZW,OA

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. (41-22) 338.89.95	Authorized officer Odile ALIU (Fax 338-8995) Telephone No. (41-22) 338 9934
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Translation

PATENT COOPERATION TREATY

PCT/CH2002/000477



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference MC 003-P/WO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CH2002/000477	International filing date (day/month/year) 02 September 2002 (02.09.2002)	Priority date (day/month/year) 14 September 2001 (14.09.2001)
International Patent Classification (IPC) or national classification and IPC B29B 7/40, 7/74, 7/90, C08J 3/215		
Applicant BÜHLER AG		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet. <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>14</u> sheets.
3. This report contains indications relating to the following items: I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 10 February 2003 (10.02.2003)	Date of completion of this report 05 January 2004 (05.01.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/CH2002/000477

I. Basis of the report

1. With regard to the elements of the international application:*

- ☒ the international application as originally filed
- ☒ the description:
pages 2,6,8,9,11,12, as originally filed
pages _____, filed with the demand
pages 1,1a,3,3a,4,4a,5,7,10, filed with the letter of 02 July 2003 (02.07.2003)
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages 1-35, filed with the letter of 02 July 2003 (02.07.2003)
- ☒ the drawings:
pages 1/2-2/2, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1 - 33	YES
	Claims	34 - 35	NO
Inventive step (IS)	Claims	1 - 33	YES
	Claims	34 - 35	NO
Industrial applicability (IA)	Claims	1 - 35	YES
	Claims		NO

2. Citations and explanations

1). The preamble of claim 1 relates to a method for producing elastomer compounds, elastomers and reinforcing materials being mixed in an extruder. First, it should be noted that wet processing of rubber and filler materials in an extruder is known from D1 (US-A-3178390).

The characterizing part of claim 1 proposes carrying out multiple filling material-incorporation steps, alternating with drainage steps, in the extruder while the product passes through it. These features were disclosed in the original claims 27-28.

The prior art suggests nothing of the kind and therefore the method of claim 1 is novel and inventive (PCT Article 33(2) and (3)).

Claims 2-30 are dependent on claim 1 and therefore likewise meet the PCT requirements for novelty and inventive step.

2). Claim 31 relates to a device for carrying out the method according to claim 1 and therefore necessarily contains alternating drainage and

filling material-incorporation areas. The prior art does not suggest any device features of this type, and therefore the device in claim 31 is novel and inventive (PCT Article 33(2) and (3)).

Claims 32 and 33 are dependent on claim 31 and therefore likewise meet the PCT requirements for novelty and inventive step.

- 3). The present application does not meet the requirements of PCT Article 33(2), because the subject matter of claims 34 and 35 lacks novelty.

Claims 34 and 35 relate to an elastomer compound produced according to a method as per one of claims 1 to 30. An elastomer compound of this type, with homogeneously distributed reinforcing materials, is, however, known from US-A-3178390 (D1).

In this context, it should be noted that the independent product claim 34 does not contain any product features. Therefore there are also no features that differ from the teaching of D1.

- 4). Several of the claims lack clarity (PCT Article 6).

- 4.1. It is clear from the application, and particularly from claim 1, that drainage areas and filling material-incorporation areas alternating along the extruder are essential to the definition of the invention (device).

Since the independent claim 31 does not contain these features in a clearly worded form, it does not meet the requirement of PCT Article 6 in conjunction

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with PCT Rule 6.3(b) that every independent claim must include all the technical features essential to the definition of the invention.

- 4.2. In claim 14, it is unclear in part as to what exactly is meant by a "centrifugal mill".
- 4.3. Claims 22 to 24 appear to relate to features already contained in claim 1.
- 4.4. The features of claim 1 (elastomer compounds) should not be placed between parentheses.
- 4.5. The word "dadurch" appears to have been omitted preceding the word "gekennzeichnet" in the German version of claim 1.